

THE HON'BLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 10145 of 2004

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Dated: 31-03-2006

Between:

D. Venkataratnam.

..Petitioner.

and

Commissioner, Municipal Corporation of Vijayawada, Krishna District.

..Respondent.

THE HON'BLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No. 10145 of 2004

ORDER:

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This petition is filed seeking a writ of mandamus to declare the action of

respondent in trying to take possession of the site of the petitioner i.e., Ac:0-17 cents in R.S.No.200/1 of Vijayawada at Patamata, without any notice, as illegal and arbitrary and to direct the respondent not to interfere with the peaceful possession and enjoyment of the petitioner in respect of the said site.

The case of the petitioner is that he is the absolute owner and possessor of the house site admeasuring an extent of Ac:0-17 cents in R.S.No.200/1 of Vijayawada at patamata. The subordinates of the respondent came to his site and attempted to take possession of the same without issuing any notice and without following any procedure prescribed under law. Therefore, the action of the respondent in interfering with the possession of the said property is illegal and arbitrary. Hence the writ petition.

The first respondent filed counter stating that the respondent Corporation is having an open space of Ac:0-17 cents in R.S.No.200/1 of Patamata, Vijayawada and that the said open space is a reserve open site in L.P.No.50/81/DTP, which is under the possession of respondent Corporation ever since from the approval of the layout and that the said layout open space is not at all a private land. It is further stated that the petitioner has not produced any document regarding the said site and with a view of grab the said land, the petitioner has constructed a compound wall.

Having regard to the facts and circumstances of the case, if the petitioner is having any document claiming his right, title and possession over the said land, it is open for him to approach the respondent-Corporation along with necessary documents in proof of his claim so as to enable the respondent to take appropriate action.

Accordingly, the Writ Petition is disposed of directing the petitioner to make a representation before the respondent along with necessary documents in proof of his right, title and possession over the said property, within three weeks from the date of receipt of a copy of this order and on filing such representation, the respondent may consider and dispose of the same in accordance with law. No order as to costs.

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